

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NEXTGEAR CAPITAL, INC.,

Plaintiff,

v.

CNG AUTO GROUP, INC. d/b/a TOP
WHEELS; ELONTO R. HERNANDEZ COLON;
and JULISSA M. FUENTES RIVERA,

Defendants.

CIVIL NO.

Breach of Contract,
Collection of Monies,
Repossession of Personal Property

**DECLARATION UNDER PENALTY OF PERJURY
OF ANGEL M. GARCIA RODRIGUEZ**

I, Angel M. García Rodríguez, of legal age, single, and resident of Peñuelas, Puerto Rico, hereby state and declare under penalty of perjury the following:

1. I work for NextGear Capital, Inc. ("NextGear") in the position of Account Executive and, as such, have personal knowledge to declare the following.

2. On August 1, 2014, NextGear and CNG Auto Group, Inc. d/b/a Top Wheels ("Top Wheels") entered into a Demand Promissory Note and Loan and Security Agreement (the "Agreement").

3. There are thirty one (31) automobiles, worth approximately \$475,844.83, that secure the loan extended by NextGear to Top Wheels (the "Collateral"):

- a. 2012 Gray Porsche Cayenne, VIN: A01595;
- b. 2012 White Mercedes C Class, VIN: 607266;
- c. 2010 Gray Ford Escape, VIN: B24611;
- d. 2012 White Mercedes Sprinter, VIN: 636749;
- e. 2013 Blue Hyundai Accent, VIN: 388867;
- f. 2013 Blue Nissan Versa, VIN: 822250;
- g. 2013 Gray Nissan Versa, VIN: 822212;
- h. 2013 Blue Nissan Versa, VIN: 832081;

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- i. 2013 Blue Nissan Versa, VIN: 840027;
- j. 2013 Gray Nissan Versa, VIN: 832140;
- k. 2013 White Ford Fiesta, VIN: 161404;
- l. 2013 Red Ford Fiesta, VIN: 161411;
- m. 2013 Silver Kia Forte, VIN: 716621;
- n. 2013 Gold Kia Forte, VIN: 716633;
- o. 2013 Blue Kia Forte, VIN: 716642;
- p. 2014 Red Toyota Yaris, VIN: 588986;
- q. 2010 Blue Mini Cooper, VIN: U97622;
- r. 2008 Black Mercedes C Class, VIN: 050483;
- s. 2013 Orange Hyundai Veloster, VIN: 149841;
- t. 2003 Orange Hummer H2, VIN: 103121;
- u. 2013 Red Nissan Frontier, VIN: 731930;
- v. 2011 White Ford Escape, VIN: B38063;
- w. 2012 Gray Toyota Yaris, VIN: 419656;
- x. 2013 Blue Hyundai Accent, VIN: 545696;
- y. 2012 Ford Fiesta (unknown color), VIN: 123287;
- z. 2011 White Toyota FJ Cruiser, VIN: 010898;
- aa. 2009 White Mercedes R Class, VIN: 092468;
- bb. 2014 Gray Toyota Tacoma, VIN: 051359;
- cc. 2008 White Mercedes S Class, VIN: 205959;
- dd. 2012 Blue Mini Cooper, VIN: 488852;
- ee. 2013 Green Jeep Wrangler, VIN: 581339

4. The above listed automobiles are, to the best of my knowledge, located at Top Wheels' warehouse in Bo. Buena Vista, Carr. 167 Km 15.3, Bayamón, Puerto Rico 00956. However, Top Wheels keeps its warehouse locked and has failed to provide information regarding exact locations of the vehicles.

5. In March 2015, NextGear began having automatic payment attempts against Top Wheels' bank account returned because Top Wheels had insufficient funds in its account. That is, Top Wheels has missed and failed to pay multiple routine installment payments.

6. Top Wheels has not made a loan payment since April 24, 2015.

7. Furthermore, Top Wheels has refused on several occasions to give NextGear or its auditors access to the inventory to conduct an audit of the same.

8. When NextGear was last permitted to audit the inventory financed for Top Wheels, at least two units were unaccounted for and Top Wheels refused to provide information regarding where those units were located or if they had been sold.

9. On or about May 11, 2015, NextGear asked Top Wheels in writing to surrender its remaining inventory, but Top Wheels refused to do so.

10. It has recently come to my attention that Top Wheels might be conducting out of trust sales of the referenced vehicles in order to deprive NextGear of its collateral.

11. Top Wheels' outstanding loan balance is currently \$481,114.56, which is calculated as follows: (a) \$463,060.62 of floorplan/receivable advance; (b) \$8,637.52 of interest; (c) \$9,416.42 of fees.

12. I carried out several efforts, including telephone calls and written communications, to work out a payment plan of all due installments or agree upon a voluntary surrender of the Collateral, but these efforts proved unsuccessful as Top Wheels responded with empty promises that were not met.

13. Finally, I have read the foregoing Complaint and, to the best of my knowledge and belief and based on the information provided to me, all of its allegations are true and correct.

STATEMENT PURSUANT TO 28 U.S.C. § 1746(2)

I, Angel M. García Rodríguez, certify under penalty of perjury that the foregoing declaration is true and correct.

Executed in San Juan, Puerto Rico, this 16th of June, 2015.


ANGEL M. GARCIA RODRIGUEZ